

Senate Daily Reader

Wednesday, February 08, 2006

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State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0241

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1036 -**
01/20/2006

Introduced by: The Committee on Health and Human Services at the request of the
Department of Health

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the certification of
2 an optometrist from another state and to increase the fee for a certificate of registration.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-7-13 be amended to read as follows:

5 36-7-13. By way of substitution for the requirements in subdivisions 36-7-11(3), (4), and
6 (5) and in ~~§ 36-7-12~~ §§ 36-7-12, 36-7-12.1 and 36-7-31, a candidate for licensure in this state
7 may be given a certificate of registration by paying a fee of ~~fifty~~ one hundred seventy-five
8 dollars upon proof to the Board of Examiners by certified copy of the certificate of registration
9 issued to ~~said~~ the candidate by another state United States jurisdiction where the requirements
10 for registration ~~shall be~~ are deemed by the South Dakota State Board to be the equivalent to
11 those provided by this chapter; ~~provided such state shall accord like privileges to holders of~~
12 ~~certificates of the South Dakota State Board~~ if the candidate passes the examination
13 administered by the board required by this chapter or presents satisfactory evidence to the board
14 of having passed substantially similar examinations in another jurisdiction, and the candidate



1 has practiced optometry in ~~such~~ the other state for at least five consecutive years immediately
2 prior to ~~his~~ the candidate's application for registration in South Dakota. The board may
3 promulgate rules, pursuant to chapter 1-26, to establish standards for licensure through
4 endorsement pursuant to this section, including the level and status of licensure required, the
5 evidence required to establish that the requirements for registration in the jurisdiction in which
6 the candidate is licensed are substantially similar to those required by this chapter, the procedure
7 and contents required for submitting the application, and any additional education, testing, or
8 training necessary to ensure the competency of the candidate.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0325

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1039** -
01/20/2006

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the disposition of
2 funds collected on local exchange service lines, cellular telephones, and radio pager devices.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 49-31-51 be amended to read as follows:

5 49-31-51. There is hereby imposed an access fee of fifteen cents per local exchange service
6 line per month, fifteen cents per cellular telephone per month in accordance with the provisions
7 provided in subdivision 34-45-1(7), and fifteen cents per radio pager device per month to pay
8 for the program established in § 49-31-47. The access fee shall be paid by each local exchange
9 subscriber to a local exchange service, or by each cellular telephone or radio pager service
10 subscriber to the service provider, unless the subscriber is otherwise exempt from taxation. The
11 access fee shall be reported as a separate line or service and collected on the regular monthly
12 bill by each local exchange telecommunications company or other service provider operating
13 in this state. On or before the last day of the month following each two-month period, every
14 telecommunications company providing local exchange service or other service provided



1 specified in this section shall remit to the Department of Revenue and Regulation on forms
2 furnished by the department the amount of the access fee collected for that two- month period.
3 The secretary of revenue and regulation may grant an extension of not more than five days for
4 filing a remittance. The Department of Revenue and Regulation shall deposit ninety percent of
5 the money received under §§ 49-31-47 to 49-31-56, inclusive, into the telecommunication fund
6 for the deaf and ten percent in the telecommunication fund for other disabilities. The balance
7 in each fund in excess of an average of three months operating expenditures from the previous
8 state fiscal year may be used by the Department of Human Services to purchase
9 telecommunication assistive devices, communication aids and devices, home modifications and
10 assistive devices, and infrastructure and operational expenses to enhance communication
11 capacity for persons with disabilities and operational expenses for interpreter certification and
12 services for the deaf.

13 Section 2. The provisions of this Act are repealed on July 1, 2009.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

727M0603

HOUSE ENGROSSED NO. **HB 1118** - 01/31/2006

Introduced by: Representatives Rounds, Hennies, McCoy, and O'Brien and Senators Bogue, Bartling, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding failure to stop at the
2 command of a law enforcement officer and regarding eluding a law enforcement officer in
3 a vehicle.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 32-33-18 be amended to read as follows:

6 32-33-18. Any driver of a ~~motor~~ vehicle who intentionally fails or refuses to bring a vehicle
7 to a stop, ~~or who otherwise flees or attempts to elude a pursuing law enforcement vehicle,~~ when
8 given visual or audible signal to bring the vehicle to a stop, is guilty of ~~eluding~~ failure to stop
9 at the signal of a law enforcement officer. The signal given by the law enforcement officer may
10 be by hand, voice, emergency light, or siren. The officer giving the signal shall be in uniform,
11 prominently displaying a badge of office, and the vehicle shall be appropriately marked showing
12 it to be an official law enforcement vehicle.

13 ~~Eluding~~ Failure to stop at the signal of a law enforcement officer is a ~~Class 1~~ Class 2
14 misdemeanor. In addition, the court ~~shall~~ may order that the defendant's driver's license be
15 revoked for up to one year, but may issue an order, upon proof of financial responsibility



1 pursuant to § 32-35-43.1, allowing the defendant to operate a ~~motor~~ vehicle for purposes of the
2 defendant's employment, attendance at school, or counseling programs. ~~Any person who is found~~
3 ~~guilty of eluding is subject to the additional enhanced penalties if the course of eluding results~~
4 ~~in:~~

5 ~~— (1) — Death or great bodily injury to another person, a Class 4 felony; and~~

6 ~~— (2) — Substantial bodily injury to another person or property damage in excess of five~~
7 ~~hundred dollars to property belonging to a person other than the person eluding, a~~
8 ~~Class 6 felony.~~

9 ~~— For any subsequent violation, the court shall order that the defendant's driver's license be~~
10 ~~revoked for five years.~~

11 Section 2. That chapter 32-33 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Any driver of a vehicle who, after failing or refusing to bring a vehicle to a stop pursuant
14 to § 32-33-18, flees from the law enforcement officer or attempts to elude the pursuit of the law
15 enforcement officer is guilty of eluding. Eluding is a Class 1 misdemeanor. In addition, the court
16 may order that the defendant's driver's license be revoked for up to one year, but may issue an
17 order, upon proof of financial responsibility pursuant to § 32-35-43.1, allowing the defendant
18 to operate a vehicle for purposes of the defendant's employment, attendance at school, or
19 counseling programs.

20 Section 3. That chapter 32-33 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 Any driver of a vehicle who flees from a law enforcement officer or attempts to elude the
23 pursuit of a law enforcement officer is guilty of aggravated eluding if, at any time during the
24 flight or pursuit, the driver operates the vehicle in a manner that constitutes an inherent risk of

1 death or serious bodily injury to any third person. Any of the following constitutes an inherent
2 risk of death or serious bodily injury to a third person, while fleeing from a law enforcement
3 officer or attempting to elude the pursuit of a law enforcement officer:

4 (1) Death or serious bodily injury to any person; or

5 (2) Reckless driving as defined in § 32-24-1.

6 Aggravated eluding is a Class 6 felony. In addition, the court may order that the defendant's
7 driver's license be revoked for up to one year, but may issue an order, upon proof of financial
8 responsibility pursuant to § 32-35-43.1, allowing the defendant to operate a vehicle for purposes
9 of the defendant's employment, attendance at school, or counseling programs. For any
10 subsequent aggravated eluding violation, the court shall order that the defendant's driver's
11 license be revoked for five years.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

970M0301

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1134 - 02/06/2006

Introduced by: Representatives Hanks, Brunner, Buckingham, Davis, Frost, Fryslie, Garnos, Hackl, Klaudt, Krebs, McCoy, Rave, and Rhoden and Senators Lintz, Bogue, and Duenwald

1 FOR AN ACT ENTITLED, An Act to to revise certain provisions regarding the justifiable use
2 of force.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-5-9 be amended to read as follows:

5 22-5-9. Any person may lawfully resist, by force or violence, the commission of any public
6 offense as follows:

7 (1) Any person, ~~about to be injured~~ upon reasonable apprehension of threat of bodily
8 injury, may make sufficient resistance to prevent an offense against his or her person
9 or the person of any family or household member ~~thereof~~, or to prevent an illegal
10 attempt by force to take or injure property in his or her lawful possession; and

11 (2) Any person may make sufficient resistance in aid or defense of a any other person,
12 ~~about to be injured~~ threatened with bodily injury, to prevent such offense.

13 Section 2. That § 22-18-4 be amended to read as follows:

14 22-18-4. ~~To use or attempt to use or offer to use force or violence upon or toward the person~~



1 ~~of another is not unlawful if committed either by any person about to be injured, or by any other~~
2 ~~person in the aid or defense of a person about to be injured, in preventing or attempting to~~
3 ~~prevent an offense against his or her own person, or in preventing any trespass or other unlawful~~
4 ~~interference with real or personal property in his or her lawful possession. However, the force~~
5 ~~or violence used cannot be more than that sufficient to prevent such offense. Any person is~~
6 ~~justified in the use of force or violence against another person when, and to the extent that, the~~
7 ~~person reasonably believes that such conduct is necessary to prevent or terminate the other~~
8 ~~person's trespass on or other criminal interference with real property or personal property~~
9 ~~lawfully in his or her possession or in the possession of another who is a member of his or her~~
10 ~~immediate family or household or of a person whose property he or she has a legal duty to~~
11 ~~protect. However, the person is justified in the use of deadly force only as provided in §§ 22-16-~~
12 ~~34 and 22-16-35. A person does not have a duty to retreat if the person is in a place where he~~
13 ~~or she has a right to be.~~

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

835M0581

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1147** - 02/03/2006

Introduced by: Representatives Murschel, Cutler, Dykstra, Hackl, Halverson, Heineman, Hennies, Hunhoff, Kroger, McCoy, O'Brien, Rounds, and Thompson and Senators Schoenbeck, Abdallah, Bartling, Broderick, Dempster, Knudson, Moore, Nesselhuf, Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to revise certain eligibility restrictions related to secondary
2 school extracurricular activities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-32-9 be amended to read as follows:

5 13-32-9. Any person adjudicated, convicted, the subject of a youth diversion program, or
6 the subject of a suspended imposition of sentence for possession, use, or distribution of
7 controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting,
8 inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, is
9 ineligible to participate in any extracurricular activity at any secondary school accredited by the
10 Department of Education for one calendar year from the date of adjudication, conviction,
11 diversion, or suspended imposition of sentence. The one-year suspension may be reduced to
12 sixty school days if the person participates in an assessment with a certified chemical
13 dependency counselor or completes an accredited intensive prevention or treatment program.
14 If the assessment indicates the need for a higher level of care, the student is required to complete



1 the prescribed program before becoming eligible to participate in extracurricular activities.
2 Upon a subsequent adjudication, conviction, diversion, or suspended imposition of sentence for
3 possession, use, or distribution of controlled drugs or substances or marijuana as defined in
4 chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as
5 prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to
6 participate in any extracurricular activity ~~while that person is attending at any secondary school~~
7 accredited by the Department of Education. Upon such a determination in any juvenile court
8 proceeding the Unified Judicial System shall give notice of that determination to the South
9 Dakota High School Activities Association and the chief administrator of the school in which
10 the person is ~~enrolled~~ participating in any extracurricular activity.

11 Upon placement of the person in a youth diversion program, the state's attorney who placed
12 the person in that program shall give notice of that placement to the South Dakota High School
13 Activities Association and chief administrator of the school in which the person is participating
14 in any extracurricular activity.

15 As used in this section, the term, extracurricular activity, means any activity sanctioned by
16 the South Dakota High School Activities Association.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

744M0244

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1161** - 01/26/2006

Introduced by: Representatives Brunner, Halverson, Hanks, Hills, McCoy, Rhoden, and
Turbiville and Senators McNenny, Bogue, Hansen (Tom), Koskan, Lintz, and
Napoli

1 FOR AN ACT ENTITLED, An Act to provide additional methods for the formation of special
2 zoning areas.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 11-2-37 be amended to read as follows:

5 11-2-37. If an area within a county and not within a municipality becomes so situated that
6 a zoning ordinance or any other purpose or procedure set forth in this chapter is advisable,
7 persons within the area may apply to the board to establish the area as a special zoning area or
8 the board may on its own initiative establish the area as a special zoning area, pursuant to this
9 chapter. ~~The board may not form special zoning areas if~~ No special zoning area may be formed
10 in a county in which a county wide comprehensive plan and zoning ordinances have been
11 adopted. The formation of a special zoning area is only valid in a county that has not adopted
12 a county wide comprehensive plan and zoning ordinances. The board may establish a special
13 zoning area on its own initiative if the special zoning area comprises an area of at least five
14 square miles.



Section 2. That § 11-2-38 be amended to read as follows:

11-2-38. Persons making application for the establishment of a special zoning area, or the board if it is proposing the establishment of a special zoning area, shall first obtain an accurate survey and map of the territory intended to be embraced within the limits of the special zoning area, showing the boundaries and area of the proposed special zoning area. The accuracy of the survey and map shall be verified by the affidavit of the surveyor.

Section 3. That § 11-2-39 be amended to read as follows:

11-2-39. ~~Such persons~~ Persons making application for the establishment of a special zoning area, or the board, if it is proposing the establishment of a special zoning area, shall obtain an accurate census of the resident population of the territory included in ~~said the~~ the map, as of a day not more than thirty days ~~previous to the time of filing such application~~ before the application is filed with the county auditor as provided in § 11-2-41. ~~Such or not more than thirty days before the board has proposed the establishment of a special zoning area. The~~ census shall exhibit the name of every head of a family residing within ~~such the~~ the territory on such day and the number and names of persons belonging to every ~~such~~ family and shall also state the names of all other persons residing within ~~such the~~ the territory at such time and, as to each person named, whether ~~such the~~ the person is a qualified voter. It shall be verified by the affidavit of the person ~~or persons~~ taking the ~~same~~ census, stating that, to the best information and belief of the affiant ~~or affiants~~, the census correctly shows the names and numbers of all residents and of all qualified voters within the territory. Persons taking the census may at the same time obtain signatures on the application for incorporation required by § 11-2-41.

Section 4. That § 11-2-40 be amended to read as follows:

11-2-40. ~~Such~~ The survey, map, and census when completed and verified shall be left at some convenient public place, to be designated by the county auditor ~~of the county in which the~~

1 ~~application for incorporation is to be filed, within such territory~~ the proposed special zoning area
2 ~~for a period of not less than twenty days for examination by those having an interest in such~~
3 ~~application~~ the public.

4 Section 5. That § 11-2-41 be amended to read as follows:

5 11-2-41. The application for establishment of a special zoning area shall be a petition
6 verified by one or more applicants, by affidavit stating that the affiant ~~or affiants~~ personally
7 witnessed the signatures on the petition and believe ~~them~~ the signatures to be genuine, and shall
8 be subscribed by not less than one-third of the whole number of qualified voters residing within
9 the ~~territory~~ proposed special zoning area according to the census taken. The petition shall be
10 filed with the county auditor and presented to the board for consideration at its next meeting.
11 If the board chooses to propose the establishment of a special zoning area on its own initiative,
12 the board may by resolution propose the establishment of the special zoning area at any regular
13 meeting of the board. After the board has adopted a resolution proposing the establishment of
14 a special zoning area, the board shall publish notice and hold a public hearing on the question
15 as provided in this Act.

16 Section 6. That § 11-2-42 be amended to read as follows:

17 11-2-42. If a petition has been presented to the board as provided in § 11-2-41 and if the
18 board is satisfied that the requirements of this chapter have been fully complied with, it shall
19 make an order declaring that the territory shall, with the assent of the qualified voters thereof
20 as provided in § 11-2-39, be a special zoning area or number specified in the application. The
21 board shall include in the order a notice for an election of the qualified voters resident in the
22 proposed special zoning area, at a convenient place or places therein, on some day within one
23 month from the notice, to determine whether the territory shall become a special zoning area.

24 Section 7. That § 11-2-43 be amended to read as follows:

1 11-2-43. The board shall give ten days' notice of the election by publication and by posting
2 a copy of the notice at three of the most public places in the proposed special zoning area. In the
3 case of a special zoning area that is proposed by the board, the board shall post such notice at
4 least ten days before the meeting at which it will act on the establishment of the special zoning
5 area. In addition, if the board is proposing the establishment of a special zoning area, the board
6 shall publish notice in the official newspapers of the county at least ten days before the meeting
7 at which it intends to act on the establishment of the special zoning area. For a special zoning
8 area proposed by the board, the published notice shall include a statement that the board will
9 hold a public hearing on the establishment of the proposed special zoning area; the location of
10 the proposed special zoning area; the date, time, and location of the meeting at which the
11 hearing will be held; and a statement that the board will take final action on the establishment
12 of the special zoning area after the hearing is completed.

13 Section 8. That § 11-2-47 be amended to read as follows:

14 11-2-47. After the vote is cast and canvassed, the judges shall make a verified statement
15 showing the whole number of ballots cast, together with the number voting for and the number
16 voting against establishment, and shall return the statement to the board at its next session. If
17 satisfied with the legality of the election, the board shall make an order declaring that the special
18 zoning area has been incorporated by the name or number adopted. The order is conclusive of
19 the fact of establishment.

20 In the case of a special zoning area that is proposed by the board, the board shall hold a
21 public hearing at a meeting of the board on the establishment of the proposed special zoning
22 area. The meeting shall be held as specified in the notice published pursuant to this Act. After
23 the public hearing, the board shall determine whether the special zoning area is to be
24 established. If the board decides to establish the special zoning area, the board shall issue an

1 order establishing and incorporating the special zoning area.

2 Section 9. That chapter 11-2 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The board's decision to establish and incorporate the special zoning area may be referred to
5 a vote of the qualified voters of the proposed special zoning area pursuant to §§ 7-18A-17 to 7-
6 18A-24, inclusive. The qualified voters of the proposed special zoning area may refer the
7 decision withing twenty days after its publication by filing a petition signed by five percent of
8 the registered voters in the special zoning area, based upon the total number of registered voters
9 at the last preceding general election. The filing of a valid petition requires the submission of
10 the decision to establish and incorporate the special zoning area to a vote of the qualified voters
11 of the proposed special zoning area for its rejection or approval. The effective date of the
12 establishment and incorporation of the special zoning area on which a referendum is to be held
13 shall be suspended by the filing of a referendum petition until the referendum process is
14 completed.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

671M0139

HOUSE ENGROSSED NO. **HJR 1002** - 01/17/2006

Introduced by: Representatives Michels, Haley, Heineman, Hunhoff, and Putnam and
Senators Olson (Ed), Broderick, Gray, Peterson (Jim), and Schoenbeck at the
request of the Constitutional Revision Commission

1 A JOINT RESOLUTION, To repeal certain voided constitutional provisions regarding term
2 limits for United States senators and representatives.

3 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH
4 DAKOTA, THE SENATE CONCURRING THEREIN:

5 Section 1. That at the next general election held in the state, the repeal of Article III, section
6 32 of the Constitution of the State of South Dakota, as set forth in section 2 of this Joint
7 Resolution, which is hereby agreed to, shall be submitted to the electors of the state for
8 approval.

9 Section 2. That Article III, section 32 of the Constitution of the State of South Dakota, be
10 repealed.

11 § 32. ~~Commencing with the 1992 election, no person may be elected to more than two~~
12 ~~consecutive terms in the United States senate or more than six consecutive terms in the United~~
13 ~~States house of representatives.~~



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

257M0080

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HJR 1003** - 01/27/2006

Introduced by: Representatives Michels, Haley, Heineman, Hunhoff, and Putnam and
Senators Olson (Ed), Broderick, Gray, Peterson (Jim), and Schoenbeck at the
request of the Constitutional Revision Commission

1 A JOINT RESOLUTION, To revise certain constitutional provisions regarding the Legislature.
2 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH
3 DAKOTA, THE SENATE CONCURRING THEREIN:

4 Section 1. That at the next general election, the following amendments to Article III and
5 Article IV of the Constitution of the State of South Dakota, as set forth in sections 2 to 10,
6 inclusive, of this Joint Resolution, which are hereby agreed to, shall be submitted to the electors
7 of the state for approval.

8 Section 2. That Article III, section 2 of the Constitution of the State of South Dakota, be
9 amended to read as follows:

10 § 2. ~~After the Legislature elected for the years 1937 and 1938 the~~ The number of members
11 of the house of representatives shall not be less than fifty nor more than seventy-five, and the
12 number of members of the senate shall not be less than twenty-five nor more than thirty-five.

13 ~~The sessions of the Legislature shall be biennial except as otherwise provided in this~~
14 ~~Constitution.~~



Section 3. That Article III, section 6 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 6. The terms of office of the members of the Legislature shall be two years; they shall receive for their services the salary fixed by law under the provisions of § 2 of article XXI of this Constitution, ~~and five cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.~~

No person may serve more than four consecutive terms or a total of eight consecutive years in the senate and more than four consecutive terms or a total of eight consecutive years in the house of representatives. However, this restriction does not apply to partial terms to which a legislator may be appointed ~~or to legislative service before January 1, 1993.~~

A regular session of the Legislature shall ~~be held in each odd-numbered year and shall not exceed forty legislative days, excluding Sundays, holidays, and legislative recess, except in cases of impeachment, and members~~ not exceed forty legislative days in each odd-numbered year and shall not exceed thirty-five legislative days in each even-numbered year except in cases of impeachment. Sundays, holidays, and days of legislative recess shall not be included as legislative days. Members of the Legislature shall receive no other pay or perquisites except salary, expenses, per diem, and mileage as provided by law.

~~A regular session of the Legislature shall be held in each even-numbered year beginning with the year 1964 and shall not exceed thirty-five legislative days, excluding Sundays, holidays and legislative recess, except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except salary and mileage.~~

Section 4. That Article III, section 13 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 13. Each house shall keep a journal of its proceedings and publish the same ~~from time to~~

1 ~~time, except such parts as require secrecy, and the~~ as provided by law. The yeas and nays of
2 members on any question shall be taken at the desire of one-sixth of those present and entered
3 upon the journal.

4 Section 5. That Article III, section 14 of the Constitution of the State of South Dakota, be
5 amended to read as follows:

6 § 14. In all elections to be made by the Legislature the members thereof shall vote ~~viva voce~~
7 and their votes shall be entered in the journal.

8 Section 6. That Article III, section 15 of the Constitution of the State of South Dakota, be
9 amended to read as follows:

10 § 15. ~~The sessions of each house and of the committee of the whole shall be open, unless~~
11 ~~when the business is such as ought to be kept secret~~ All legislative sessions, joint sessions, and
12 committee meetings shall be open to the public unless a two-thirds majority of the membership
13 declares the business is such as ought to be kept secret. No votes may be taken at any session
14 or meeting closed to the public.

15 Section 7. That Article III, section 17 of the Constitution of the State of South Dakota, be
16 amended to read as follows:

17 § 17. Every bill shall be ~~read twice~~ entered upon the journal, by number and title ~~once~~, when
18 introduced; and ~~once upon~~ shall be read, by number and title, prior to final passage; ~~but one~~
19 ~~reading at length may be demanded at any time before final passage.~~

20 Section 8. That Article III, section 29 of the Constitution of the State of South Dakota, be
21 amended to read as follows:

22 § 29. Notwithstanding any general or special provisions of the Constitution, in order to
23 insure continuity of state and local governmental operations in periods of emergency resulting
24 from ~~disasters~~ a natural or man-made disaster or a disaster caused by enemy attack, the

1 Legislature shall have the power and the immediate duty ~~(1)~~ to provide for prompt and
2 temporary succession to the powers and duties of public offices, of whatever nature and whether
3 filled by election or appointment, the incumbents of which may become unavailable for carrying
4 on the powers and duties of such offices, and ~~(2)~~ to adopt such other measures as may be
5 necessary and proper for insuring the continuity of governmental operations. In the exercise of
6 the powers hereby conferred the Legislature shall in all respects conform to the requirements
7 of this Constitution except to the extent that in the judgment of the Legislature so to do would
8 be impracticable or would admit of undue delay.

9 Section 9. That Article III be amended by adding thereto a NEW SECTION to read as
10 follows:

11 § 33. The members of the senate shall elect one member to preside as president of the
12 senate.

13 The members of the house of representatives shall elect one member to preside as speaker
14 of the house of representatives.

15 Section 10. That Article IV, section 5 of the Constitution of the State of South Dakota, be
16 amended to read as follows:

17 § 5. ~~The lieutenant governor shall be president of the senate but shall have no vote unless~~
18 ~~the senators be equally divided.~~ The lieutenant governor shall perform the duties and exercise
19 the powers that may be delegated to him by the Governor.

20 Section 11. The provisions of sections 9 and 10 of this Joint Resolution are effective
21 January 1, 2011.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

643M0609

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 194** - 02/02/2006

Introduced by: Senators Nesselhuf, Hanson (Gary), Kloucek, Kooistra, and Olson (Ed) and
Representatives Dykstra, Bradford, Hargens, Murschel, Pederson (Gordon),
Rounds, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to revise the definition of wine for farm wineries.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 35-12-1 be amended to read as follows:

4 35-12-1. Terms used in this chapter mean:

5 (1) "Farm winery," any winery operated by the owner of a South Dakota farm and
6 producing table, sparkling, or sacramental wines from grapes, grape juice, other fruit
7 bases, or honey, or wine as defined in subdivision (2), with a majority of the
8 ingredients grown or produced in South Dakota;

9 (2) ~~"Table, sparkling, and sacramental wines," any beverage made without rectification~~
10 ~~or fortification and containing not more than eighteen percent alcohol by volume and~~
11 ~~made by the fermentation of grapes, grape juice, other fruits, or honey~~ "Wine," any
12 beverage made without rectification, except for the purpose of fortification, from the
13 fermentation of grapes, grape juice, other fruit bases, or honey, with or without
14 adding brandy or alcohol, and containing not less than one-half percent and not more



1 than twenty-four percent alcohol by volume.

2 Section 2. That § 35-12-2 be amended to read as follows:

3 35-12-2. The secretary of the Department of Revenue and Regulation may issue a farm
4 winery license to the owner or operator of a farm winery located within the state and producing
5 table wines, sparkling wines, and sacramental ~~wine~~ wines, or wine as defined in subdivision (2).
6 Licenses may be issued and renewed for an annual fee of one hundred dollars, which is in lieu
7 of all other license fees required by chapter 35-4. The fee shall be deposited in the general fund.

8 Section 3. That § 35-12-3 be amended to read as follows:

9 35-12-3. Except as otherwise specified in this chapter, all provisions of this title apply to the
10 production, sale, possession, and consumption of table wines, sparkling wines, and sacramental
11 wines, or wine as defined in subdivision (2), produced by a farm winery.

12 Section 4. That § 35-12-4 be amended to read as follows:

13 35-12-4. The holder of a farm winery license may manufacture wine in the state from South
14 Dakota produced or grown grapes, grape juice, other fruit bases, or honey. If South Dakota
15 produced or grown grapes, grape juice, other fruits, or honey are not available in quantities
16 sufficient to constitute a majority of the table or sparkling wine, or wine as defined in
17 subdivision (2), produced by a farm winery, the holder of the farm winery license may file an
18 affidavit with the secretary of the Department of Revenue and Regulation stating this fact and
19 requesting that the secretary approve the use of imported products by the winery. If the secretary
20 approves, the farm winery may use imported products and shall continue to be governed by the
21 provisions of this chapter. The secretary's approval is effective for a period of one year, after
22 which the farm winery shall use South Dakota grown or produced grapes, grape juice, other
23 fruits, or honey unless the farm winery license holder files a new affidavit and request with the
24 secretary and the secretary approves the request.

1 Section 5. That § 35-12-5 be amended to read as follows:

2 35-12-5. A license issued pursuant to § 35-12-2 authorizes the sale on the farm winery
3 premises of table wine, sparkling wines, or sacramental wines, or any wine as defined in
4 subdivision (2), produced by the farm winery at on-sale or off-sale, in retail, or wholesale lots
5 in total quantities not in excess of fifty thousand gallons in a calendar year, glassware, wine
6 literature and accessories, food products, South Dakota made products, and the dispensing of
7 free samples of wines offered for sale. Sales at on-sale and off-sale may be made at any time
8 during the week except on Sundays when the on-sale and off-sale sales are restricted to between
9 twelve noon and twelve midnight.

10 Section 6. That § 35-12-7 be amended to read as follows:

11 35-12-7. There is hereby levied on all table and sparkling wines, and wine as defined in
12 subdivision (2), manufactured or produced by a South Dakota winery an excise tax imposed at
13 the same rates and collected and administered in the same manner as the tax imposed on wine
14 in chapter 35-5. Sacramental wines are exempt from the tax imposed by this section.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0675

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 202** - 02/03/2006

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to increased
2 energy costs in K-12 school districts and postsecondary vocational education institutions and
3 to declare an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. There is hereby appropriated from the state general fund the sum of two million
6 one hundred fifty thousand dollars (\$2,150,000), or so much thereof as may be necessary, to the
7 Department of Education to be distributed on a one-time basis to approved K-12 school districts
8 and postsecondary vocational education institutions to help pay for increased heating costs
9 realized during the 2005-2006 school year.

10 Section 2. To participate and receive funds appropriated in section 1, any public school or
11 postsecondary vocational education institution shall submit an energy reimbursement form with
12 supporting information related to heating costs incurred for the 2005-2006 school year and the
13 2004-2005 school year to the Department of Education. The Department of Education shall
14 disburse the funds based on the increases in costs from 2004-2005 year to the 2005-2006 year.
15 The funds shall be distributed on a pro-rata share of the total amount of funds requested. Any



1 school district participating shall submit a statement signed by the school district superintendent,
2 the school district business manager, and the school district school board president that this
3 funding is being accepted on a one-time basis. Any postsecondary vocational education
4 institution participating shall submit a statement signed by the director of the institution, the
5 business manager for the institution, and the school district school board president that this
6 funding is being accepted on a one-time basis.

7 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
8 June 30, 2006, shall revert in accordance with § 4-8-21.

9 Section 4. Whereas, this Act is necessary for the support of the state government and its
10 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
11 full force and effect from and after its passage and approval.